

Attachment L: 2010 Community Conservation Challenge Certifications and Assurances

If awarded a CCC grant, all grant recipients will be required to attest to the following certifications in the Grant Agreement. Therefore, the clauses below are reproduced for the purpose of informing possible grant recipients of the certifications and assurances that will be included in their Grant Agreement. Grant recipients should also review the instructions for certification included in the regulations before signing this Grant Agreement. Signature of the Grant Agreement provides for compliance with certification requirements under 34 CFR Part 82 and 34 CFR Part 85.

I. LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United

States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$ 10,000 and not more than \$ 100,000 for each such failure.

II. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

(1) The Grant Recipient certifies to the best of its knowledge and belief, that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transactions by any Federal department or agency;

(b) have not within a three-year period preceding this Grant Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a three-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the primary Grant Recipient is unable to certify to any of the statements in section II (1), Grant Recipient shall provide a written explanation to the Office of Energy and Development immediately.

III. LOBBYING DISCLOSURE ACT OF 1995, SIMPSON-CRAIG AMENDMENT

Applicant organizations which are described in section 501(c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995, shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan. Section 501(c)(4) of the Internal Revenue Code of 1986 covers:

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is

limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

As set forth in the Lobbying Disclosure Act of 1995 (Public Law 104-65, December 19, 1995) as amended [“Simpson-Craig Amendment,” see Section 129 of the Balanced Budget Downpayment Act, I (Public Law 104-99, January 26, 1996)], lobbying activities is defined broadly. (See section 3 of the Act.)

The Grant Recipient certifies, to the best of his or her knowledge and belief, that: it IS NOT an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; OR that it IS an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, which after December 31, 1995, HAS NOT engaged in any lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

IV. ADDITIONAL AUDIT REQUIREMENTS FOR GRANTEEES THAT EXPEND OVER \$500,000 IN FEDERAL AWARDS PER YEAR

Any grant recipient expending **Five Hundred Thousand Dollars (\$500,000) or more in Federal awards per year** must have an audit made for that year by an independent auditor. For-profit organizations should consult 10 CFR 600.316 for guidance. Non-profit organizations, institutions of higher education, and local governments should consult the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations” for guidance.

U.S. DEPARTMENT OF ENERGY ASSURANCE OF COMPLIANCE NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

GRANT RECIPIENT HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub.L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub.L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub.L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub.L. 92-318, Pub.L. 93-568, and Pub.L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub.L. 93-112), the Age Discrimination Act of 1975 (Pub.L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub.L. 90-284), the Department of Energy Organization Act of 1977 (Pub.L. 95-91), and the Energy Conservation and Production Act of 1976, as amended (Pub.L. 94-385) and Title 10, Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from

participation in, be denied to benefits of, or be otherwise subjected to discrimination under any program or activity in which the Grant Recipient receives Federal assistance from the Department of Energy.

I. Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved, with Federal assistance extended to the Grant Recipient by the Department of Energy, this assurance obligates the Grant Recipient for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Grant Recipient for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Grant Recipient for the period during which the Federal assistance is extended to the Grant Recipient by the Department of Energy.

II. Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Grant Recipient's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department, the Grant Recipient agrees not to discriminate on the ground of race, color, national origin, sex, age, or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs; or other forms of compensation and use of facilities.

III. Subrecipient Assurance

The Grant Recipient shall require any individual, organization, or other entity with whom it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws cited above. To this end, the subrecipient shall be required to sign a written assurance form, however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

IV. Data Collection and Access to Records

The Grant Recipient agrees to compile and maintain information pertaining to programs or activities developed as a result of the Grant Recipient's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to, the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or

will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color, national origin, sex, age, and disability; (3) data regarding covered employment including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, age, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to its obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Grant Recipient agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Grant Recipient from the use of Federal assistance funds extended by the Department of Energy, Facilities of the Grant Recipient (including physical plants, building, or other structures) and all records, books, accounts, and other sources of information pertinent to the Grant Recipient's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U.S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Grant Recipients by the Department of Energy, including installment payments on account after such data of application for Federal assistance which are approved before such date. The Grant Recipient recognizes and agrees that such Federal assistance will be extended in reliance upon the representation and agreements made in this assurance and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Grant Recipient, the successors, transferees, and assignees, as well as the person(s) whose signature appears on this Grant Agreement and who are authorized to sign this assurance on behalf of the Grant Recipient.

Office of Energy Development Acknowledgement of Financial Disclosure

The Applicant is required to attest to the following clause as an acknowledgement of the financial disclosure requirements of the Community Conservation Challenge program.

The Applicant agrees to submit requested financial documentation and assurances to the Office of Energy Development. The Applicant acknowledges that failure to submit the requested information

within the timeline issue by OED may result in the applicant being disqualified from further consideration.

Grant Recipient certifies by signing this Grant Agreement that it has complied, or that, within ninety (90) days of the date of this grant, will comply with all applicable requirements of 10 C.F.R. § 1040.5. A copy will be furnished to Grant Recipient upon written request to the Office of the Lieutenant Governor, Office of Energy Development.

Applicant Affirmations

The Applicant hereby affirms that it is properly registered with the Indiana Secretary of State (if applicable) and is in good standing with the Indiana Department of Revenue and the Department of Workforce Development. The Applicant also affirms that 1) there are no outstanding enforcement actions against it by the Indiana Department of Environmental Management, 2) all permits have been acquired or are in the process with the Indiana Department of Environmental Management and Indiana Department of Natural Resources, and 3) there are no significant workforce issues, such as a pending reduction in the applicant’s workforce or pending or threatened workforce action against the Applicant. The below-named signatory(ies) hereby warrant that they are authorized to make such affirmations to the Indiana Office of Energy Development.

I attest that, to the best of my knowledge, all information provided in this application and in conjunction with this application is factual.

Authorized Official (signature)

Project Manager (signature)

Name and Title (type or print)

Name and Title (type or print)

Date

Date